OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 9th June 1971

The Council met at half past Two o'clock

[MR PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
SIR HUGH SELBY NORMAN-WALKER, KCMG, OBE, JP

THE HONOURABLE THE COLONIAL SECRETARY (*Acting*)
MR MICHAEL DENYS ARTHUR OLINTON, GM, JP

THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, CBE, QC, JP

THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR DONALD COLLIN CUMYN LUDDINGTON, JP

THE HONOURABLE THE FINANCIAL SECRETARY
SIR JOHN JAMES COWPERTHWAITE, KBE, CMG, JP

THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC, JP
COMMISSIONER OF LABOUR

THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE, JP
DIRECTOR OF URBAN SERVICES

THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS

THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION

DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP
COMMISSIONER FOR RESETTLEMENT

THE HONOURABLE JACK CATER, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY

THE HONOURABLE DENIS CAMPBELL BRAY, JP
DISTRICT COMMISSIONER, NEW TERRITORIES

THE HONOURABLE KAN YUET-KEUNG, CBE, JP

THE HONOURABLE WOO PAK-CHUEN, OBE, JP

THE HONOURABLE SZETO WAI, OBE, JP

THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP

THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP

THE HONOURABLE HERBERT CHARLES BROWNE, JP

DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP

THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP

THE HONOURABLE ANN TSE-KAI, OBE, JP

THE HONOURABLE LO KWEE-SEONG, JP

ABSENT

THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP

THE HONOURABLE LEE QUO-WEI, OBE, JP

THE HONOURABLE OSWALD VICTOR CHEUNG, QC, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Papers

The following papers were laid pursuant to Standing Order No 14(2):—

Subject	*LN No*
Subsidiary Legislation:—	
Immigration (Control and Offences) Ordinance.	
Immigration (Control and Offences) (Amendment) Regulations 1971	62
Pensions Ordinance.	
Pensionable Offices Order 1971	63
Public Health and Urban Services Ordinance.	
Labourers' Lines (New Territories) (Revocation) Regulations 1971	66
Sessional Paper 1970-71:—	
No 58—Annual Report by the Chairman, Public Services Commission for the year 1970 (published on 9.6.71).	

Oral answers to questions

Welfare facilities for Hong Kong seamen

1. MR G. M. B. SALMON asked:—

> In view of the fact that the welfare of Hong Kong seamen is at present specifically excluded, will Government examine the present constitution and terms of reference of the Port Welfare Committee with a view to extending welfare facilities for seamen domiciled in Hong Kong as well as those visiting the port from abroad?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITE):—Sir, there is a general convention that Governments should make special provision for the welfare of foreign seamen visiting their ports. This is because of the special needs and problems which face them while engaged away from home in an essential international service. The Port Welfare Committee is charged with co-ordinating this welfare work in Hong Kong and with allocating funds made available for it.

This same convention does not apply to seamen who are at home. The general view is that they do not require any special welfare arrangements beyond those available to the rest of the

population. Certain incidental welfare services are in practice afforded by our Seamen's Recruiting Office and there is also a small Mercantile Marine Assistance Fund set up by Ordinance in 1933.

It may, of course, be argued that such seamen do have special problems and that special public assistance in meeting these problems is required. There was a proposal in 1964 that the terms of reference of the Port Welfare Committee should be extended to Hong Kong seamen but this was not agreed. Last year the Director of Marine and the Port Welfare Committee suggested that Government should set up a working party to examine the question of the welfare of resident Hong Kong seamen. I am afraid that no decision has been made yet on this suggestion. We shall now give it urgent consideration but I think that, because of international obligations, this problem must be considered quite separately from the welfare needs of visiting seamen.

Under 17 identity cards

2. DR S. Y. CHUNG asked:—

> Will Government make a report on the progress made since January 1970 regarding the review promised by Government for the necessary improvements on the present identity card system for young persons under 17 years of age?

THE COLONIAL SECRETARY (ACTING) (MR M. D. A. CLINTON):— Sir, I am sorry to say that progress has not been as fast as it should have been and, for this, I can only offer my apologies to Dr CHUNG.

Discussions with the several Government departments involved indicate that it may be desirable to abolish the present juvenile form of identity card and instead to issue the same card as the adult form, containing a photograph of the holder. Furthermore, in order to meet the requirements of children entering primary schools at the age of 6, the new card might be issued to children at the age of 5. But it would be unrealistic to imagine that a photograph of a child of 5 would serve as an adequate means of identification for any length of time. Consequently, it is proposed by the departments concerned that the holder must seek to have the card and photograph brought up to date at the age of 13. This should meet the requirements of employers which, I think, is probably what Dr CHUNG is mainly interested in.

I should stress that these proposals, which sound rather complicated, are still tentative; their practicability and costs have not been worked out. I will try to ensure, however, that the matter is given greater priority.

I might add that Government is also considering a scheme for voluntary updating of identity cards and photographs thereafter at, perhaps, 10-yearly intervals. The financial implications of this scheme and the annual workload are at present being examined.

DR CHUNG:—Sir, it is rather disappointing to hear that so little headway has been made in the last 18 months. Will my honourable Friend inform this Council which Government departments are responsible for this work?

THE COLONIAL SECRETARY (ACTING) (MR CLINTON):—I agree entirely with Dr CHUNG that it is very disappointing but I really would rather not blame the individual departments concerned as I think this would be a bit invidious.

Train services on KCR

3. MR SZETO WAI asked:—

> In view of the serious congestion on the New Territories roads and the large crowds using the trains on Sundays and public holidays, would Government consider early action to double-track the railway between its terminal at Tsim Sha Tsui and Sha Tin as proposed many years ago by Mr Y. K. KAN?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITE):—Sir, double-tracking the railway to Sha Tin has been considered from time to time over the last ten years or so but decisions have been held up by various uncertainties such as the development of Sha Tin (including a branch line of an underground railway which is now not included in the recommended system) and possible future trends in freight as well as passenger traffic. The development of Sha Tin has now begun, although on a much more modest scale than originally envisaged, and consideration is being given now to double-tracking in the light of this.

I do not think, however, that the large crowds using the trains and the New Territories roads on Sundays and public holidays provide an adequate reason by themselves for double-tracking. It is unlikely that additional trains would take much traffic from the roads and it is certain that the provision of a second track and additional rolling stock merely to provide for increased peak holiday traffic (63,000 at

present compared with 25,000 on week-days) would be grossly uneconomic.

It is estimated that the capital cost of double-tracking (excluding a second tunnel) would be of the order of $16 million, while each additional complete train would cost $9 million. The passenger service is already a loss-making part of the railway undertaking.

In the meantime, I understand that it would be possible to improve the service at peak periods by the provision of one more train at a cost of $9 million. This has been proposed by the General Manager and is under consideration.

But it remains that the basic factor at present in a decision on double-tracking must be the rate of development of Sha Tin.

MR SZETO:—Sir, have we got sufficient rolling stock to put in one more train on public holidays?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITE):—I understand we have not and that what the General Manager has proposed is the purchase of one more train for this purpose at a cost of $9 million.

MR SZETO:—Would Government consider purchasing this one more train, Sir?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITE):—I have already said that the matter is under consideration.

Films not suitable for children

4. MR SALMON asked:—

> Will Government consider whether it would be possible to introduce regulations prohibiting children from seeing films marked "Not suitable for children"?

THE SECRETARY FOR HOME AFFAIRS (MR D. C. C. LUDDINGTON):— Sir, under the present Film Censorship Regulations, when the Chief Film Censor considers that a film is suitable for public exhibition in Hong Kong to adult audiences but not suitable for screening to young audiences he directs that the distributors should advertise the film as "Not Suitable for Children". It is thereafter a matter for discretion for the parents or guardians to decide whether they should be permitted to attend such public screenings whatever their age.

The Secretary of the Panel of Censors, in conjunction with other interested Departments, has recently considered whether or not it would be more effective to recommend a change in the law whereby this advisory system of classification could be changed to a compulsory system of classification, under which young persons below a certain age could be excluded by law from a cinema where films "Not suitable for Children" were being screened. His preliminary conclusion is that in the light of the family viewing habits which still persist in Hong Kong whereby many parents and their young children attend cinema shows together, it is better to leave discretion in this matter to the parents.

If a compulsory system of film classification were to be introduced with any hope of effective enforcement, it would be necessary for young people around the accepted age to carry valid documents testifying to their age and to be individually identified from such documents. The introduction of such a system would present a number of practical problems.

MR SALMON:—Sir, will my honourable Friend agree that there are regulations in other countries to prevent children seeing films quite unsuitable for them, and would he examine what steps are taken else-where to see such regulations are enforced, and would he also perhaps ask the City District Officers to assemble public opinion and possibly suggestions on this issue?

THE SECRETARY FOR HOME AFFAIRS (MR LUDDINGTON):—Yes, Sir, some study has already been made of what has been done in other parts of the world and a short pilot public opinion survey has been conducted in different districts. This indicates that a majority of a sample of some 600 people did think that regulations to prohibit children under 16 from seeing films containing scenes of a violent or sexual nature should be introduced into Hong Kong. The question posed did not however indicate that there would be any practical difficulties and the possibility even of rising prices. But the subject is certainly one which is under study and will remain so.

Former military hospital at Mount Kellett

5. MR SALMON asked:—

> Will Government make a statement on the present and future position of the old British Military Hospital on Mount Kellett?

MR J. J. ROBSON:—Sir, Government acquired the United Services Hospital (previously the War Memorial Hospital) on Mount Kellett from the War Department in 1967 at which time a sum of $500,000 was paid as *ex-gratia* compensation to the Ministry of Defence. Included in the transfer at the time was also a block of flats lower down Mount Kellett Road previously used as Sisters' quarters. The Sisters' quarters have now been renovated to provide six flats as Government quarters.

The hospital buildings themselves comprise a total floor area of some 111,000 *sq. ft.* on four floors and a site of 48,000 *sq. ft.* Since the time of purchase a sum of $310,000 has been spent on renovation works, largely to make the buildings wind and water proof. At the time of purchase it was intended that the building should be converted for use as an infectious diseases convalescent hospital for the Medical Department at a cost estimated in the order of $3½ million. Tenders were called early in 1971 and the response indicated that the cost of the works had risen to the order of $6 million.

In the light of this increased cost my colleague, the Director of Medical and Health Services, re-examined the need for the project and on the advice of the Medical Development Plan Standing Committee decided that it should be abandoned.

Consideration is still being given to a suitable alternative use for the building.

Improvement to traffic flow at Waterloo Road/ Prince Edward Road/Boundary Street

6. MR T. K. ANN asked:—

> What progress has been made in the improvement of the traffic flow at the interchange of Waterloo Road/Prince Edward Road/Boundary Street? When will work be started and completed?

MR ROBSON:—Sir, the Public Works Item to effect improvement of the traffic flow at the Waterloo Road/Prince Edward Road/Boundary Street Interchange was upgraded to Category B at the Third Review of the Public Works Sub-Committee held in December 1969 and this permitted the appointment of Consulting Engineers to prepare a preliminary report and estimate. This has been received and a request for upgrading the project to Category A was considered at the Public Works Sub-Committee meeting held in May 1971. Their recommendation will be considered at the meeting of the Finance Committee of this Council to be held this afternoon.

Honourable Members will know the important part this interchange plays in the Kowloon road network and to overcome the traffic congestion which already assumes serious proportions at peak periods, which are becoming progressively longer, the Consulting Engineers have recommended a 3-level grade separation scheme estimated to cost $43 million.

On receipt of approval by the Finance Committee it is proposed to proceed with the ordering and provision of a temporary 3-lane vehicular bridge to carry traffic in Prince Edward Road across Waterloo Road so as to give an immediate relief to east/west traffic and to enable the permanent works to proceed more quickly. Nevertheless inconvenience and congestion will be unavoidable during the construction period. Detailed design of the permanent works will proceed in parallel with the ordering and construction of the temporary bridge and it is hoped that work on the permanent interchange can commence in May 1972 with completion by mid-1974.

I must, however, advise honourable Members that in accordance with the provisions of the Streets (Alteration) Ordinance 1970 over 100 objections and claims have been registered by owners of properties adjoining the proposed works. These claims and objections will have to be considered by the Governor in Council and the alterations to streets which are involved approved, before any work can be put in hand. It will also be necessary to acquire certain land under the provisions of the Crown Land Resumption Ordinance and action is already in hand in this respect. The acquisition of this land is vital because additional ground level road space is necessary in order to keep traffic moving as best as possible during the period of construction.

Whilst I hope progress in connexion with these statutory procedures will be sufficiently advanced to enable work to commence in May 1972, I must draw honourable Members' attention to the fact that any delay in this aspect will be reflected in the actual starting date of the works.

Facilities for passengers at Macau Ferry Wharf

7. MR H. J. C. BROWNE asked:—

> What progress is being made in improving the facilities for passengers at the Macau Ferry Wharf?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITE): — Sir, honourable Members will recall that various alterations and additions to the Macau Ferry Terminal were completed in August 1967 at a

total cost of over $200,000. These works included a re-arrangement of offices, an enlargement of the passenger clearance area to enable more immigration clearance counters to be installed, an extension of the covered way at the wharfside and an additional clearance area for hydrofoil passengers. These works were completed a time when the flow of passenger traffic was at its lowest level for some years.

The number of passengers travelling in both directions is now running at three million a year. This is more than the terminal was designed for but a more serious matter is the congestion at peak periods and several steps have recently been taken to try to relieve this. The ferry operators have installed a public address system to relay boarding and other information to passengers and they intend to recruit Terminal Hostesses to assist in directing passengers to ferries. An area of land to the east of the wharf has been allocated to the Marine Department to provide a cargo landing enclave and additional berthing space. Finally, action has been taken by the Police and the Urban Services Department to keep the approaches to the wharf clear of parked vehicles and other obstructions.

The Director of Marine, who assumed direct responsibility for the operation of the terminal (other than the ticket offices) from the beginning of this year, is planning further improvements for which purpose an item was included in Category B of the Public Works Programme at the Third Review in 1970. These plans, which are in two stages, include an extension to the covered way from the Arrival/Departure Hall to the hydrofoil waiting area and the removal of various offices on the landward side of the Arrival/Departure Hall to give a total covered area of approximately 16,000 square feet for passengers waiting to enter the terminal. They also include the removal of a wall on the seaward side of the Arrival/Departure Hall to facilitate passenger access to the Immigration Department processing desk, and the re-arrangement of various offices and the provision of additional office space in order to facilitate a more rapid flow of passengers through the terminal. The order of cost of these works was estimated at $600,000 at the time of the Third Review of the Public Works Programme last year. I understand that sketch plans for Stage I are nearing completion.

Separately, the Director of Marine hopes to be able to arrange with the departments concerned for improvement of traffic arrangements in the vicinity of the terminal by the demolition of the public latrine which now obstructs access to the terminal, for the removal of the metered parking spaces fronting the Arrival/Departure Hall to make way for a taxi rank and for the reservation of an area in front of the ticket offices for use by tourist buses.

Oral Answers

New GPO building on Hong Kong Island

8. MR WILFRED S. B. WONG asked:—

Will Government state what progress has been made on the new General Post Office Building in Hong Kong since it was first placed on the Public Works Programme?

MR ROBSON:—Sir, the new Hong Kong General Post Office project was included in Category B of the Public Works Programme in December 1962. Originally, a building complex comprising a high block for Government Offices and a low block incorporating the Post Office and a Police Station was envisaged; but after several feasibility studies were produced in an endeavour to include the Police Station it was concluded that the two uses were incompatible in view of the ground floor areas required by each. The project was thus delayed until a site could be reserved for the Police Station, which required an amendment to the zoning plan for the area. The revised Zoning Plan was approved by the Governor in Council in September 1969.

In July 1969 it was decided that the office block should be built in the area below Murray Building and that the General Post Office should be reprovided in a separate building on a site situated on the Central Reclamation between the Star Ferry Pier and the Blake Pier. Subsequent to the schedule of accommodation being approved by Public Works Sub-Committee in July 1969, revised sketch plans showing a five-storey building were prepared. These, together with the estimate of approximately $21.5 million, were approved by Public Works Sub-Committee and Finance Committee in July 1970 and at the same time the project was upgraded to Category A, thereby giving approval for the working drawings to be put in hand.

Completion of working drawings is however dependent on the system of postal mechanization to be used within the building, and in May 1971, that is this year, the PMG sought and was given authority to accept an offer from the British Post Office to provide expert advice on this. It is hoped that this expert advice will be made available shortly when the working drawings for the project will be finalized and contract documents prepared.

MR WONG:—Sir, is it true that these experts cannot come to Hong Kong until Finance Committee has approved their expenses?

MR ROBSON:—Sir, I think I am right in saying that the Finance Committee has already approved the expenses and I have arranged a financial allocation from the building vote to the Postmaster General to enable him to send for these experts.

MR WONG:—Thank you.

Fake medicines

9. MRS ELLEN LI asked:—

> What steps are being taken by Government to enforce the law against the manufacture and marketing of fake medicines?

DR G. H. CHOA:—Sir, under the Pharmacy and Poisons Ordinance action can be taken against any person manufacturing or marketing fake medicines if these medicines are found to contain scheduled poisons. Similar action can also be taken under the Antibiotics Ordinance if the fake medicines are found to contain antibiotics.

However, if by fake medicines my honourable Friend is referring to a medical preparation which does not contain scheduled poisons or antibiotics but is alleged to contain an ingredient which it does not in fact contain, the powers at present available to prevent the manufacture and sale of fake and counterfeit medicines appear to be inadequate.

To remedy this situation a Drafting Sub-Committee of the Pharmacy and Poisons Board is preparing draft regulations which are intended to prohibit the manufacture and sale of fake drugs and to introduce tighter control over the importation of pharmaceutical products. I understand that it is hoped that this Sub-Committee will forward the draft regulations to the Board for consideration at its next meeting which is scheduled to be held on 17th June 1971. When the Board has considered the Sub-Committee's draft regulations, it will forward them to the Legal Department for examination.

In addition, the Pharmacy and Poisons Board has already recommended to Government that consideration be given to revising the Undesirable Medical Advertisements Ordinance so as to make it compulsory for the containers of medicines and drugs to be properly labelled as to their contents.

The action which I have described will, I hope, meet the present situation but I shall keep the situation under constant review and will not hesitate to consult the various Boards concerned on the need for any fuller legislation which may be necessary to eliminate trafficking in fake medicines.

Oral Answers

Reported bacteria in water supply

10. MR SZETO asked:—

Will Government make a statement on the recent report that there is an unusually high concentration of bacteria in our water supply?

MR ROBSON:—Sir, the recent newspaper report that the water samples taken by a private organization from consumers' taps contained large amounts of bacteria was ambiguous and sight of the laboratory reports on which they were based reveals that approved water testing techniques were not used. The introduction to the report referred to untreated Hong Kong tap water while of course water provided by Government to consumers' taps is extensively treated. This was acknowledged by the report which went on to say that water becomes contaminated in the pipes and storage tanks. It was not a disinterested report as it was made by the agent for water sterilizing equipment and I deprecate this form of sales campaign as it is both misleading and alarming as to the true quality of the Hong Kong public water supply, which is to the highest international standards of purity.

The maintenance of these standards is the responsibility of the water quality unit of the Waterworks Office, which is staffed by qualified chemists, laboratory assistants and water samplers. There are three Waterworks laboratories concerned with water quality control, and over 2,500 samples are taken every month from all parts of the water supply system, from storage reservoir to consumers' taps. Apart from the obvious need to carry out laboratory testing with great care and precision, it should also be noted that correct sampling requires skill and experience to avoid inadvertent contamination of the sample itself.

During the last financial year a total of 3,153 samples were taken from consumers' taps. Of the 1,847 samples taken from taps fed directly from the mains only one was found to be unsatisfactory. Of the remaining 1,306 samples taken from taps fed through the storage tanks of premises, only 8 were unsatisfactory. In no case, however, did the contamination approach anything like the levels of the newspaper report which mentioned bacteria levels as high as 210 coliform organisms per 1 c.c. The standard of purity aimed at by the Waterworks Office is nil coliform organism per 100 c.c. and any positive count is regarded as suspicious and is investigated.

When an unsatisfactory sample is found the entire plumbing system of the premises is inspected by the Waterworks Office and where

the supply is through a private tank, this is cleansed and the system sterilized by the Waterworks Office. Subsequent samples are then taken to establish that the supply is satisfactory.

This information basically repeats what has already been stated publicly by the Director of Water Supplies and I also wish to repeat his message to the public that water purifiers are generally unnecessary in Hong Kong as our record of public health will confirm. A few years ago there was a case of infection in a restaurant which used contaminated well water on its premises and the public is urged not to use such water in the kitchen.

The usual source of contamination of mains water is old or dirty roof tanks and an annual check on such tanks, followed by cleaning and sterilization with chloride of lime, and then ensuring a good fitting tank cover, is the easiest and cheapest method of ensuring a safe water supply.

Sir, since preparing that statement I have seen a further report and editorial comment in one of this morning's newspapers claiming "the water was tested in a government licensed bacteriological laboratory" and "tests show water is not suitable for drinking purposes" and "it is dangerous and irresponsible to evade the issue that the water in our homes is suspect".

I have the following comments:—

(i) The laboratory which tested the samples referred to, is *not* licensed for the purposes of testing water, or in fact for any other tests although it is possible that it may have a business registration certificate.

(ii) The laboratory which is in Mirador Mansions has been visited by Waterworks chemists but it was not possible to obtain entry to find out if staff and facilities are adequate for producing reliable or accurate information on the bacteriological quality of water samples.

(iii) The procedures and tests used at the laboratory are not standard tests for the bacteriological quality of water. I am informed that Agar plate counts which this laboratory uses show all the organisms which grow at 37℃. (pathogenic or otherwise). In other words, it is not possible by this test to tell what proportion of these organisms are coliform organisms including the organism E Coli which are the important ones.

(iv) The laboratory will carry out a bacteriological test on any samples brought to it for a fee of $50 and in these cases they will have no knowledge of the method of sampling of the samples they test. The laboratory was prepared to issue a

test tube for collecting samples but such a sample would be inadequate for a proper water bacteriological quality test and would be liable to contamination from organisms which would affect the Agar plate count.

(v) The test results sheet reproduced in this morning's paper have been deliberately trimmed, and thus do not show that at least in one case the samples are of untreated water.

From all I have said I would think Members would agree that the editorial comment I have quoted is without just foundation.

I have indicated that to suggest a bacteriological level in Government tap water of 210 E coliform organisms per 1 c.c. is absurd but to suggest, as is done in the same newspaper, that Government standards for drinking water is 10 E coliform organisms per c.c. is not only false but positively dangerous as it may lead people to drink such water. I repeat that the standard of purity aimed for in Government drinking water is nil coliform organisms per *100* c.c.

It should be noted that any member of the public or any commercial organization wishing to have a proper bacteriological test carried out may do so by contacting the Waterworks Office laboratories at the Sha Tin Treatment Works and the Eastern Treatment Works on Hong Kong Island. The fee is $50.

MR KAN:—Sir, I think we are all very relieved to hear of the assurance from my honourable Friend. May I have the further assurance from my honourable Friend, Sir, that I can now safely drink this water which is now on the table without any ill effect? (*Laughter*).

MR ROBSON:—Sir, as I always drink it myself ...(*whereupon Mr Robson lifted his own glass*). (*More laughter*).

Statement

Cleanliness of carriages on KCR

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITE):—Sir, at the last meeting of Council, in response to a supplementary question by my honourable Friend, Mr KAN, I promised to get information as to whether there was any legislation dealing with cleanliness in railway carriages.

Rule 50 of the Railways Rules made under the Railways Ordinance (Chapter 99) reads as follows:—

> "No person shall deposit or throw or cause to be deposited or thrown at or from any carriage or on any railway property or premises any glass, stone or missile, or any filth, dirt, rubbish or other offensive or waste matter."

Under section 57 of the principal Ordinance a breach of the rule carries a fine of $250 on summary conviction.

Government business

First reading

AFFILIATION PROCEEDINGS BILL 1971

LEGITIMACY BILL 1971

CRIMINAL LAW (MISCELLANEOUS AMENDMENTS) BILL 1971

CORONERS (AMENDMENT) BILL 1971

SUNDAY CARGO WORKING (REPEAL) BILL 1971

INLAND REVENUE (VALIDATION OF FORMS) BILL 1971

MEDICAL REGISTRATION (AMENDMENT) BILL 1971

Bills read the first time and ordered to be set down for second reading pursuant to Standing Order No 41(3).

Second reading

AFFILIATION PROCEEDINGS BILL 1971

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS) moved the second reading of:—"A bill to provide for the maintenance and custody of illegitimate children."

He said:—Sir, this bill and the Legitimacy Bill 1971, which are both on the Order Paper for today, are the last two bills in the programme of family law with which honourable Members have been concerned throughout this year and I would like to take this opportunity of saying how grateful I am to the Chinese Unofficial Members of Executive Council for the invaluable advice and help they have given to me in the preparation of these measures.

The Affiliation Proceedings Bill will, for the first time in Hong Kong, make statutory provision for the proper maintenance and custody of illegitimate children.

That no provision now exists in the law of Hong Kong is no doubt due to the fact that, as I am informed, it has been the custom here in the past for the father of a child born out of wedlock to assume financial and parental responsibility for the child. Thus the need for such legislation has been much less than it would have been in many European countries, where putative fathers are less ready to acknowledge their responsibilities.

Clause 3 of the bill provides that a single woman who is pregnant, or who has given birth to an illegitimate child, may apply to the District Court for an affiliation order against the man alleged by her to be the father of the child. Application may also be made on behalf of the child by his guardian.

Clause 4 prevents an application being made for an affiliation order more than 12 months after the child's birth. However, if the putative father has contributed to the child's maintenance during the 12 months after the birth, or if he returns to Hong Kong having left within the 12 months next after the birth, then an application may be made more than a year after the birth.

When dealing with an application under clause 3, the court is obliged to hear the evidence of the mother, which must be corroborated in some material particular by other evidence. Of course, it will be open to the putative father to appear and dispute the application. The court may then adjudge the defendant to be the putative father of the child and make an order for the payment, for the maintenance and education of the child, at a rate not exceeding $120 a week, which is the same maximum amount as may be awarded by the court on an application by a wife for the maintenance of a child of her marriage under the Separation and Maintenance Orders Ordinance.

An affiliation order will cease to be in force when the child reaches the age of 16 years, unless the court is satisfied that the child is engaged in full time education after that age, or is suffering from a mental or physical disability, in which cases it may direct that payments should continue until the child reaches 21.

Clause 15 provides that the court may appoint a person other than the mother as custodian of an illegitimate child if the court is satisfied that the mother is not a proper person to have custody of the child or if the mother dies or is of unsound mind or is in prison. The Director of Social Welfare is empowered to make an application to the court in these circumstances for the appointment of a custodian.

Applications for affiliation orders under the bill may only be made in relation to a child born on or after the date when the bill comes

into force, which would be the 7th October this year by clause 1 of the bill.

The bill follows closely the provisions of the United Kingdom Affiliation Proceedings Act 1957, with a few minor amendments taken from the law of New Zealand and of certain other Commonwealth countries.

This bill, and the Legitimacy Bill, were both published in the *Gazette* at the end of April and public comments on them were invited. Such public comment as has been received has been strongly in favour of the enactment of both measures.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

The Bill empowers the District Court to make a finding as to the person who is the putative father of an illegitimate child and to make an affiliation order to the effect that the father shall make payments for the maintenance and education of the child.

2. Clause 3 enables an application for an affiliation order to be made by a single woman who is with child or has been delivered of a child, or by a woman who was a single woman at the date of the birth of the child. Application may also be made on behalf of a child by a guardian *ad litem* appointed by the court under rule 27 of the District Court Civil Procedure (General) Rules.

3. By clause 4, affiliation proceedings must be commenced within twelve months of the child's birth, though this period is extended when the putative father has paid maintenance for the child within twelve months from the date of birth, or has returned to the Colony if he ceased to reside in the Colony within twelve months from the child's birth.

4. Clause 5 empowers the court, upon hearing the evidence of the mother, to adjudge the defendant to be the putative father of the child and to order him to pay maintenance for the child at a rate not exceeding one hundred and twenty dollars weekly. This maximum is the same as is provided for orders in respect of the maintenance of children under the Separation and Maintenance Orders Ordinance (Cap. 16).

Affiliation Proceedings Bill—second reading

[*Explanatory Memorandum*]

5. Clause 6 provides for the reception in evidence in affiliation proceedings of any admission of paternity contained in a statutory declaration.

6. Clause 7 requires the affiliation order to provide for payment of maintenance to be made to the mother, or through the court or to the custodian of the child.

7. Clauses 8, 9 and 10 make provision for the duration of orders. An order will generally expire when the child attains the age of sixteen years but this may be extended by further orders up to twenty-one years, if the child is engaged in further education or training or is mentally or physically disabled.

8. A person against whom an affiliation order is made will be required to notify any change in his address, to the registrar of the court if he is making payments into court, and to the mother or custodian, if he is making payments to either of them (clause 11).

9. The court may order a pension or income to be attached to satisfy affiliation orders, after it has heard the defendant and is satisfied that he has defaulted in payments (clause 12).

10. Sums ordered to be paid under an affiliation order are recoverable as civil debts (clause 13). The court may remit the whole or any part of the sum due under an affiliation order (clause 14).

11. The court may appoint a custodian of the child, if satisfied that the mother is not a fit and proper person to have custody or has died, become of unsound mind or is in prison (clause 15).

12. It is an offence for a custodian to misapply moneys received for a child's support or to ill-treat the child (clause 16).

13. The Chief Justice, with the approval of the Legislative Council, may make procedural rules (clause 17).

14. Applications under the Bill may be made in relation only to a child born on or after the commencement of the Bill (clause 18).

15. Clause 19 effects amendments to the Separation and Maintenance Orders Ordinance consistent with the Bill.

LEGITIMACY BILL 1971

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend the law relating to children born out of wedlock."

He said:—Sir, this bill introduces for the first time into the law of Hong Kong legislation dealing specifically with the problem of children born out of wedlock and it follows closely the provisions of the United Kingdom Legitimacy Acts of 1926 and 1959.

Clause 3 provides that where the parents of an illegitimate child marry or have married, whether before or after the date of commencement of the Ordinance, the marriage would make the child legitimate, if the father of the child was domiciled in, or had a substantial connexion with, Hong Kong at the date of the marriage, and this legitimation would operate from the date of commencement of the Ordinance or the date of the marriage, whichever is the later.

Clauses 4 and 5 set out the general principle that legitimated persons and their children shall be entitled to the same interest in property as if they had been born legitimate.

Clause 6 provides that the spouse, children or remoter issue of an illegitimate person, would have been legitimated if he had not died before the marriage of his parents, are to be in the same position as regards succession to property as if the illegitimate person had become legitimated before he died.

Clause 7 confers on a legitimated person the same rights and obligations with regard to the maintenance and support of himself and of any other person as if he had been born legitimate.

Clause 8 provides for the recognition in Hong Kong of legitimation in territories outside the Colony.

Clauses 11 and 12 deal with the legitimacy of children born of void and voidable marriages and, with a few exceptions, confer on them the same rights as if they were the children of valid marriages.

Clause 14 declares that the child of a modern marriage or customary marriage validated or declared to be valid by the Marriage Reform Ordinance 1970 or a child of a union of concubinage or a kam tiu marriage entered into before the 7th October this year shall be deemed to have always been a legitimate child of the marriage or union for all purposes.

This bill will remove the disabilities to which illegitimate children in Hong Kong have been subject in the past and is, I suggest, a long overdue measure of reform.

Legitimacy Bill—second reading

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

The principal object of this Bill is to provide for legitimation of an illegitimate person by the subsequent marriage of his parents. The Bill is based largely on the Legitimacy Act 1926 (as amended by the Legitimacy Act 1959) of the United Kingdom.

2. The scope of the Bill is restricted to persons possessing the status of illegitimacy under Hong Kong law, and for the avoidance of any possible doubt clause 14 of the Bill makes it clear that any person who is the child of a modern marriage validated by the Marriage Reform Ordinance, a customary marriage declared valid by the same Ordinance, a union of concubinage or *kim tiu* marriage entered before the appointed day under the Marriage Reform Ordinance is regarded by the law as legitimate and therefore not affected in any way by this Bill.

3. Clause 3 of the Bill is the principal clause in the Bill. It provides that where the parents of an illegitimate person marry or have married before or after the Ordinance comes into force, the marriage shall by operation of law render that illegitimate person legitimate from the date of marriage or the coming into force of the Ordinance, whichever is the later. The clause will be of effect if the father of the illegitimate person is or was domiciled in Hong Kong at the date of the marriage or at that time had a substantial connexion with Hong Kong.

4. Clause 4 enables a legitimated person or his spouse, children or remoter issue to take an interest in the estate of an intestate dying after the date of legitimation or under a disposition having effect after the date of legitimation as if that legitimated person had been born legitimate.

5. Clause 5 provides that where a legitimated person or any of his issue dies intestate, the same persons may succeed on the intestacy as would have succeeded had the illegitimate person been born legitimate.

6. Under clause 6 the spouse, children or remoter issue of an illegitimate person who would have been legitimated had he not died before the marriage of his parents, are put in the same position as to succession as if that person had become a legitimated person before he died.

7. Clause 7 provides that a legitimated person shall have the same rights and obligations as to his maintenance and support and that of any other person as he would have had if he had been born legitimate.

8. Clause 8 provides for the recognition in Hong Kong of legitimation under the law of some other country in cases where the parents of the illegitimate person have married one another and the father at the time of the marriage was domiciled in or had a substantial connexion with that country. Clause 9 provides for the application of the provisions of the Ordinance generally to persons recognized as legitimated under clause 8.

9. Clause 10 enables the illegitimate child and his mother to succeed on the intestacy of the other.

10. Clause 11 provides that a child of a void marriage shall be treated as legitimate if his parents or either of them reasonably believed at the relevant time that the marriage was valid. This clause is of application only where the father was domiciled in or had a substantial connexion with Hong Kong at the time of the birth.

11. Clause 12 repeats the provision at present contained in section 23 of the Matrimonial Causes Ordinance and this section is consequentially repealed by clause 15.

12. The Schedule contains procedural provisions as to the re-registration of the birth of legitimated persons.

CRIMINAL LAW (MISCELLANEOUS AMENDMENTS) BILL 1971

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend the Interpretation and General Clauses Ordinance, the Criminal Procedure Ordinance and the Summary Offences Ordinance."

He said:—Sir, the term "arrestable offence", to describe any offence for which the maximum sentence exceeds twelve months' imprisonment, has already been used in the Criminal Procedure Ordinance and it is now proposed, by clause 4, to use it also in the Summary Offences Ordinance. Since it is a phrase which may very well be required in other Ordinances, as well, it is thought desirable to include a definition

[THE ATTORNEY GENERAL] **Criminal Law (Miscellaneous Amendments) Bill — second reading**

of it in the Interpretation and General Clauses Ordinance, and this is achieved by clause 2 of the bill.

Section 26 of the Summary Offences Ordinance, as at present worded, makes it an offence for a person to be a suspected person loitering in a public place with intent to commit a felony.

This section is in practice commonly applied to suspected persons loitering with intent to steal. However, theft is no longer a felony since it is merely described in the Theft Ordinance, which was passed last year, as an offence. Consequently, it is thought necessary to replace the word "felony" in section 26 of the Summary Offences Ordinance with the phrase "an arrestable offence" and this is proposed in clause 4 of the bill.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

Clause 2 of this Bill seeks to include the definition of "arrestable offence" in section 3 of the Interpretation and General Clauses Ordinance. Clause 3 removes it from section 2 of the Criminal Procedure Ordinance.

2. By clause 4 section 26 of the Summary Offences Ordinance is amended by replacing the references to felony therein by references to an arrestable offence.

CORONERS (AMENDMENT) BILL 1971

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend the Coroners Ordinance."

He said:—Sir, the Coroners Ordinance at present empowers the Governor to appoint specialist coroners to carry out the various duties imposed on these officers by that Ordinance. In addition, the Chief Justice can appoint magistrates to exercise the powers of the coroner, if the office of coroner is vacant for any reason or for the purpose of some particular enquiry if, in the Chief Justice's opinion, it is inexpedient for a coroner to conduct it.

The object of this bill is to enable the Chief Justice to appoint persons who are already magistrates to carry out the duties of coroners. This would replace the present system of appointing persons merely as coroners.

It will enable a more flexible use to be made of the judicial resources available to the Chief Justice and also make it possible for persons performing the duties of coroner to do ordinary magisterial work, instead of being confined to the specialized field of the coroner.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

This Bill seeks to enable the Chief Justice to appoint magistrates as coroners for the purposes of the Coroners Ordinance and any other law.

SUNDAY CARGO WORKING (REPEAL) BILL 1971

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITE) moved the second reading of:—"A bill to repeal the Sunday Cargo Working Ordinance."

He said:—Sir, at the meeting of this Council on 24th February 1971, when moving the second reading of the Appropriation Bill 1971, I proposed the abolition of the Sunday Cargo Working Ordinance. I gave my reasons for so proposing at length at that time and I will not repeat them today. The bill before Council simply repeals the existing Ordinance with effect from 1st July this year.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

The purpose of this Bill is to repeal the Sunday Cargo Working Ordinance, which prohibited the loading of cargoes on Sunday except in accordance with permits issued by the Director of Marine for which fees were payable.

The Financial Secretary in his Budget speech proposed the abolition of such fees.

INLAND REVENUE (VALIDATION OF FORMS) BILL 1971

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITE) moved the second reading of:—"A bill to validate forms purporting to have been specified by the Board of Inland Revenue under section 86 of the Inland Revenue Ordinance since 3rd May 1947."

He said:—Sir, section 86 of the Inland Revenue Ordinance empowers the Board of Inland Revenue to specify any forms which may be necessary for carrying the Ordinance into effect.

It has been the practice since this Ordinance first came into force on 3rd May 1947 to circulate forms amongst members of the Board for approval. Meetings have been held only exceptionally when discussion has been required to reach agreement. In a recent civil action taken by the Commissioner of Inland Revenue for recovery of profits tax, the presiding judge commented *obiter*—as I understand the lawyers say—that in his view this procedure did not result in a valid specification of forms. This would not, of course, affect actual liability to tax, being concerned only with machinery. To put the matter beyond doubt, the bill now before honourable Members seeks to validate all forms purported to have been specified by the Board of Inland Revenue. The Board has met to specify all 1971-72 forms.

Question proposed.

Motion made (pursuant to Standing Order No 30). That the debate on the second reading of the bill be adjourned—THE COLONIAL SECRETARY (ACTING) (MR CLINTON).

Question put and agreed to.

Explanatory Memorandum

This Bill seeks to validate all Inland Revenue forms used since the principal Ordinance came into force on the 3rd May 1947.

Section 86 of the principal Ordinance empowers the Board of Inland Revenue to specify any forms which may be necessary for carrying the Ordinance into effect. Doubts have been cast on whether all the forms so specified since 1947 were properly specified as the Board has not always met for the purpose of specifying forms, although the forms have been circulated amongst members of the Board and approved by them.

In order to put the matter beyond doubt clause 2 of the Bill seeks to validate all forms purporting to have been specified by the Board of Inland Revenue since the 3rd May 1947.

Clause 3 seeks to validate those acts done since the 3rd May 1947 under the provisions of the principal Ordinance which depend on the forms which would be validated by clause 2.

MEDICAL REGISTRATION (AMENDMENT) BILL 1971

DR CHOA moved the second reading of:—"A bill to amend the Medical Registration Ordinance."

He said:—Sir, the purpose of the amendment in this bill is to bring the Medical Registration Ordinance (Chapter 161) in line with the United Kingdom Medical Act.

The Medical Act was recently amended by the deletion of the phrase "infamous conduct in any professional respect" wherever it occurred and the insertion of the phrase "serious professional misconduct". The reason for the amendment is that difficulties had been experienced in applying the term "infamous conduct" to certain acts by medical practitioners which called for disciplinary action.

The Medical Council has agreed with this amendment but considered that it was not necessary to follow exactly the wording of the United Kingdom Medical Act.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

The Bill seeks to amend the Medical Registration Ordinance by substituting for the words "infamous conduct", wherever they occur, the word "misconduct".

MARRIED PERSONS STATUS BILL 1971

Resumption of debate on second reading (26th May 1971)

Question again proposed.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Committee stage

Council went into Committee.

PROBATE AND ADMINISTRATION BILL 1971

HIS EXCELLENCY THE PRESIDENT:—With the concurrence of honourable Members we will take the clauses in blocks of not more than five.

Clauses 1 to 8 were agreed to.

Clause 9.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 9 be amended as proposed in the paper before honourable Members.

By virtue of clause 2 of the bill "Registrar" is defined to mean the Registrar of the Supreme Court and any Deputy or Assistant Registrar.

However, it is thought advisable that the clause should state that property vesting in the Official Administrator should vest in the Registrar personally, since otherwise it might be argued that, due to the definition to which I have referred, property would vest jointly in him and in the Deputy and Assistant Registrars.

The effect of the amendment suggested would be that the Official Administrator will be the Registrar of the Supreme Court personally, though his powers and duties can be exercised by a Deputy or Assistant Registrar.

Proposed Amendment

Clause

9 That clause 9 be amended by adding the following subclause—

"(5) For the purpose of subsection (1) the term "Registrar" does not include Deputy or Assistant Registrar, but the powers and duties of the Official Administrator may be exercised by a Deputy or Assistant Registrar.".

The amendment was agreed to.

Clause 9, as amended, was agreed to.

Clauses 10 to 14 were agreed to.

Clause 15.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 15 be amended by deleting "ten" and substituting "twenty".

This will raise the upper limit of an estate which the Official Administrator may administer in a summary manner to $20,000.

Proposed Amendment

Clause

15 That clause 15 be amended by deleting "ten" and substituting the following —

"twenty".

The amendment was agreed to.

Clause 15, as amended, was agreed to.

Clauses 16 to 28 were agreed to.

Clause 29.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 29 be amended as set forth in the paper before honourable Members. This is purely as verbal amendment, which is intended to clarify the meaning of the clause.

Proposed Amendment

Clause

29 That clause 29 be amended in subclause (2)—

(*a*) by inserting after "orally" the following—

"on the hearing of any petition or probate action"; and

(*b*) by deleting "on the hearing of any petition or probate action" where it occurs after "behalf".

The amendment was agreed to.

Clause 29, as amended, was agreed to.

Clause 30.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 30 be amended in subclause (2) by inserting after the word "probate" the words "or having applied has failed to prosecute his application with reasonable diligence".

[THE ATTORNEY GENERAL] **Probate and Administration Bill— committee stage**

This is to enable a person having an interest in the estate of a deceased person to apply to have an executor removed if the executor fails to carry out his duties as such with proper diligence.

Proposed Amendment

Clause

30 That clause 30 be amended in subclause (2) by inserting after "probate," the following—

"or having applied has failed to prosecute his application with reasonable diligence,".

The amendment was agreed to.

Clause 30, as amended, was agreed to.

Clause 31.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 31 be deleted and replaced by the new clause set forth in the paper.

The proposed new clause is based on the relevant English non-contentious probate rule. It provides that where a grant of administration has been made to another person, an executor who has previously renounced may only withdraw his renunciation if the court is satisfied that this would be for the benefit of the estate or of persons interested in the estate.

Proposed Amendment

Clause

31 That clause 31 be deleted and the following substituted—

"Retraction of renunciation.: **31.** A renunciation of probate or administration may be retracted at any time on the order of the court

Provided that leave may be given to an executor to retract a renunciation of probate after a grant has been made to some other person entitled in a lower degree only if the court is satisfied that such retraction is for the benefit of the estate or persons interested therein.".

The amendment was agreed to.

Clause 31, as amended, was agreed to.

Clause 32 was agreed to.

Clause 33.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 33 be amended in two places, as set out in the paper.

The object of these amendments is to empower the court, of its own motion, to revoke a grant if satisfied that the grant should not have been made. At present, the clause only allows the court to do this on the application of an interested party and not on its own initiative.

Proposed Amendment

Clause

33 That clause 33 be amended in subclause (1)—

(*a*) by deleting ", on the application of a party interested,"; and

(*b*) by inserting after "and" the following—

"if satisfied that it would be revoked at the instance of a party interested, may".

The amendment was agreed to.

Clause 33, as amended, was agreed to.

Clauses 34 and 35 were agreed to.

Clause 36.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 36 be amended as set for the in the paper.

The first amendment in the paper removes the word "personal" from the phrase "personal estate" wherever it occurs in the clause, since this clause ought to apply to all the property of a deceased and not merely to his personal estate.

The second proposed amendment makes it clear that the power to appoint an administrator under clause 36 is subject to the provisions of clause 25, the latter clause requiring administration to be granted either to a trust corporation or to not less than two individuals if there is a minority or a life interest arising under the will or intestacy.

Probate and Administration Bill—committee stage

Proposed Amendment

Clause

36 That clause 36 be amended—

(*a*) by deleting "personal" wherever it occurs; and

(*b*) by inserting after "may" in the first place where it occurs the following —

", subject to section 25,".

The amendment was agreed to.

Clause 36, as amended, was agreed to.

Clause 37.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I propose that clause 37 be amended in subclause (2) by deleting the words "on application made for that purpose by any person interested".

The removal of these words will enable the court, of its own motion, to order the transfer of property belonging to the estate of a deceased person into the name of the Registrar of the Supreme Court for the purpose of any legal proceedings.

Proposed Amendment

Clause

37 That clause 37 be amended in subclause (2) by deleting "on application made for that purpose by any person interested,".

The amendment was agreed to.

Clause 37, as amended, was agreed to.

Clause 38.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 38 be amended by deleting the words "costs incurred in".

This is a purely verbal amendment.

Proposed Amendment

Clause

38 That clause 38 be amended by deleting "costs incurred in".

The amendment was agreed to.

Clause 38, as amended, was agreed to.

Clause 39 was agreed to.

Clause 40.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 40 be amended by inserting in subclause (1), after the word "may", the words "subject to section 25".

This amendment will ensure that the power to appoint an administrator under clause 40 remains subject to the requirements of clause 25 which I have already mentioned with regard to the protection of a minority or life interest.

Proposed Amendment

Clause

40 That clause 40 be amended in subclause (1) by inserting after "may" the following—

", subject to section 25,".

The amendment was agreed to.

Clause 40, as amended, was agreed to.

Clause 41 to 45 were agreed to.

Clauses 46 and 47.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clauses 46 and 47 be deleted and replaced by the new clauses as set out in the paper.

The new clauses and also the replacement of clauses 50 and 51 all follow from the honourable Mr KAN's suggestion that the requirement for bonds to be given by administrators, which is contained in the present clause 46, should be replaced by new provisions modelled on the equivalent sections of the Supreme Court of Judicature (Consolidation) Act 1925.

Probate and Administration Bill—committee stage

Proposed Amendments

Clause

46 and 47 That clauses 46 and 47 be deleted and the following substituted—

"Power to require administrators to produce sureties. 1925, c. 49 s. 167(1).

46. As a condition of granting administration to any person the court may, subject to the provisions of section 47 and subject to and in accordance with probate rules and orders, require one or more sureties to guarantee that they will make good, within any limit imposed by the court on the total liability of the surety or sureties, any loss which any person interested in the administration of the estate of the deceased may suffer in consequence of a breach by the administrator of his duties as such.

Effect of guarantee. 1925, c. 49 s. 167(2).

47. (1) A guarantee given in pursuance of any requirement under section 46 shall ensure for the benefit of every person interested in the administration of the estate of the deceased as if contained in a contract under seal made by the surety or sureties with every such person and, where there are two or more sureties, as if they had bound themselves jointly and severally.

(2) No action shall be brought on any such guarantee without the leave of the court.

(3) No sureties shall be required where administration is granted to the Official Administrator or to the consular officer of a State to which section 3 of the Consular Conventions Ordinance applies or in such other cases as may be prescribed by probate rules and orders.".

(Cap. 267.)

The amendments were agreed to.

Clause 46 as amended and clause 47 as amended were agreed to.

Clauses 48 and 49 were agreed to.

Clauses 50 and 51.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clauses 50 and 51 be deleted and replaced by new clauses as set forth in the paper before honourable Members.

Proposed Amendments

Clause

50 and 51 That clauses 50 and 51 be deleted and the following substituted—

"Conditions to be fulfilled before sealing.

50. The court shall, before sealing a probate or letters of administration under this Part, be satisfied that estate duty has been paid in respect of so much, if any, of the estate as is liable to estate duty in Hong Kong and may require such evidence if any as it thinks fit as to the domicile of the deceased person.

Application of sections 46 and 47.

51. As a condition of sealing letters of administration under this Part, the court may exercise the powers conferred on the court by sections 46 and 47 in the same manner as if it were granting an administration under this Ordinance.".

The amendments were agreed to.

Clause 50 as amended and clause 51 as amended were agreed to.

Clauses 52 to 65 were agreed to.

Clause 66.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 66 be amended as set forth in the paper.

These are verbal amendments.

Proposed Amendment

Clause

66 That clause 66 be amended—

(*a*) by inserting after subclause (1) the following new subclause—

"(1A) The assent shall operate to vest in that person the estate to which the assent relates, and unless a contrary intention appears, the assent shall relate back to the death of the deceased.";

(*b*) in subclause (2) by deleting "and, unless the contrary intention appears, the assent shall relate back to the death of the deceased"; and

Probate and Administration Bill—committee stage

(*c*) in subclause (4), by deleting "or interest" wherever it occurs.

The amendment was agreed to.

Clause 66, as amended, was agreed to.

Clauses 67 to 76 and the First Schedule were agreed to.

Second Schedule.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that the Second Schedule be amended as set forth in the paper.

This amendment removes from the Consular Conventions Ordinance a subsection which is no longer required since it refers to the granting of administration bonds.

Proposed Amendment

Second Schedule	That the Second Schedule be amended by inserting before "Education Ordinance" in the first column and the matters specified opposite thereto in the second column the following—		
	"(Cap. 267.)	Consular Conventions Ordinance	Section 3 is amended by deleting subsection (3).".

The amendment was agreed to.

Second Schedule, as amended, was agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (MR ROBERTS) reported that the Probate and Administration Bill 1971 had passed through Committee with amendments and moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

Adjournment

Motion made and question proposed. That this Council do now adjourn—THE COLONIAL SECRETARY (ACTING) (MR CLINTON).

3.31 p.m.

School Fees

MR Y. K. KAN:—Your Excellency, the increase in fees in English-speaking schools announced by the Director of Education a fortnight ago has evoked heated discussion on a wide variety of matters. In the limited time at my disposal today, however, there are only three aspects on which I wish to speak.

First, I should like to say that the Unofficial Members of the Council understand and sympathize with the great concern felt by the parents of children attending these schools. A sudden rise in school fees of the order of 100 to 150 per cent must have been a shock to many, particularly to those with static incomes and strict family budgets.

Government, I know, is giving urgent consideration to the review of the present fee remission system to assist parents in general who find themselves in difficulty in paying these fees and the Finance Committee of this Council hopes to receive early proposals from Government in this regard.

Meanwhile, it is understood that the Salaries Commission is considering what assistance can be given to members of the Civil Service who are facing hardship in this connexion and I have no doubt that the employers in the private sector are also urgently considering what help they can give to their employees in similar circumstances.

Secondly, I feel that, because of the inaccurate and misleading picture of the issue which has been given by a number of supposedly well-informed people, and the wide-spread confusion in the minds of the public which has resulted, it is my duty to set the record straight.

In setting out the true position I shall for convenience's sake divide the matter into three parts; formulation of the basic policy of parity on which the school fee structure rests, the current application of this policy to English-speaking schools, and the role played by the Finance Committee.

In April 1965, Government tabled in this Council a White Paper on Future Education Policy based upon the recommendations of the so-called Marsh-Sampson Report.

[MR KAN] **School Fees**

This Report contained the report of an earlier Working Party appointed by Government to consider and advise on the provision of education for English-speaking children. This Working Party was composed entirely of senior European civil servants. In its report (known as the Cockburn Report) the Working Party reaffirmed the need to provide special educational facilities for English-speaking children and recommended that "the cost of the additional advantages which these schools enjoy should be met by a reasonable increase in the school fee".

This recommendation was endorsed by another Working Party set up by Government to study the Marsh-Sampson Report and incorporated into the White paper as Government policy. This Working Party too was composed of several senior Government officers as well as a number of prominent local residents among whom were the then Professor of Education of the Hong Kong University and the Rev. Geoffrey SPEAK, the Principal of the English Schools Foundation.

The relevant portion of the White Paper reads as follows:—

> "The preceding paragraphs refer to the main body of children in the Colony. The education of English-speaking children has also to be dealt with. Here, the conclusions of the recent Working Party are generally accepted. It is recognized that there is a demand for education of the kind hitherto provided in the Government Junior English Schools and at King George V School, and that if Hong Kong's economy continues to depend in part upon the services of persons from other countries, for whom education in the English medium and for the most part in the pattern of English state education is a necessity, then the need must be filled; and it is also agreed that this need is best filled in future by aided rather than government schools wherever this is possible. The general principle is also accepted that where such education is more costly than the type of education provided for the majority, the difference in cost should be passed to those who enjoy these particular standards of provision, so that the general level of subsidy remains the same in all sections of the community."

In introducing the motion for the adoption of the White Paper "as a basis for future action" the Director of Education, speaking on the subject of provision of schools for English-speaking children, said "Whilst Government accepts the task of making these facilities available in Hong Kong for those who require an education based upon the English State School System, it does not consider that the difference in cost should be an extra charge against public funds but should be borne by those enjoying the facilities".

In the ensuing debate in this Council, described by one Member as "an historic occasion, the first time there has been a full-scale debate on education in the Legislative Council for many years", all of the 13 Unofficial Members spoke except two. I was one of those who did not speak. The speeches filled 80 pages of Hansard. Several Members including Chinese and non-Chinese Members spoke in favour of the policy on English-speaking schools. No one spoke against it.

In endorsing the policy one Member said that "it establishes the principle of social justice and equality that the general level of subsidy will be the same for all sections of the community, irrespective of colour and/or creed".

Another Member said "The Parent Teacher Associations accept the principle that the extent of Government subsidy must be common to all and if maintaining the age of entry to English schools at 5 brings the cost of running these schools above the acceptable level, then it is recognized that still higher fees may be necessary, preferably spread over the whole course. I, too, accept the principle and agree that the age of entry must be kept at 5 even if it means higher fees".

Another Member said "Most parents, however, are prepared to accept these increases, realizing that the cost of running these schools is higher, and that they cannot expect a greater subsidy per place than the Chinese schools are getting".

The honourable Financial Secretary spoke on the high cost of our state-aided educational system, particularly in Government schools, mainly due to the salaries which, according to him, were in some cases even higher than in Britain.

The Director of Education, in winding up the debate, commented "Your Excellency, in spite of the criticism which has been levelled at certain aspects of the White Paper, it must be a source of some satisfaction both to the Working Party and to the Board of Education on whose advice Government has relied in the formulation of policy...."

Thus, the policy on the subsidization of English-speaking Schools has not just been made by this Finance Committee or this Council. It was formulated by Government on the basis of the recommendations of the Education Commission and two Working Parties, accepted by the Board of Education and the Parent Teacher Association, and finally approved by the Legislative Council in 1965.

It remains Government policy today.

Let me now turn to the application of this parity policy and the sequence of events which led to the Director of Education's announcement a fortnight ago and the subsequent storm.

[MR KAN] **School Fees**

The parity policy was not at once put into effect after its adoption in 1965. It was only last year that Government decided that the transitional period should end, and the level of subsidy at English-speaking schools brought into line with that granted to other schools, as of September 1971.

In July last year Finance Committee was asked to accept the financial commitment of a higher recurrent subsidy for the two schools, the Beacon Hill Junior School and the Island Secondary School, operated by the English Schools Foundation, for a further transitional year, the academic year 1970-71. Acceptance of this financial commitment indirectly involved approval of the interim increases in fees at these schools, because calculation of the subsidy was based on the amount of these fees. Strictly speaking, Finance Committee is not concerned with the fixing of school fees or any increase thereof, which is a matter for the school authorities concerned. Under the Subsidy Code, however, aided schools cannot vary their fees without the approval of the Director of Education, who is not required to consult the Finance Committee on the matter. In this case, the proposal to increase fees was put before the Finance Committee for information as part of the proposal for a higher recurrent subsidy for these schools.

Finance Committee accepted the financial commitment involved, *i.e.* the level of subsidy. The schools made an interim increase in their fees. Later in November a proposal was put to Finance Committee to vote $1,866,000 by way of recurrent subsidy to the Foundation. This amounted to a subsidy of approximately $1,134 per place for Beacon Hill Junior School and $1,241 per place for Island Secondary School, both of which are far in excess of the amounts allowed for other subsidized schools. Notwithstanding this, Finance Committee voted the entire amount asked for, as the Foundation was obviously in great financial difficulties—their operating expenditure was estimated at $3,470,000 and their estimated fee income at only $1,604,000.

However, it was made clear to the schools that the higher subsidy would only be granted as an interim measure and that the level of subsidy would be brought into line with that granted to equivalent Chinese schools with effect from September 1971.

On the 12th May of this year Finance Committee was asked to approve that, for the purpose of determining the subsidy to the English Schools Foundation, the level of subsidy to equivalent Chinese schools should be calculated on a formula proposed by the Director of Education as set out in the paper put before Finance Committee. The paper gave, for the information of the Committee, details of estimated expenditure of the Foundation for the current and the following three

years, the amounts of subsidy proposed and the fees to be charged. The Director also informed the Committee that he proposed to introduce a similar level of fees in the Government English schools.

Once again Finance Committee was not asked to approve the increased fees but merely the method of fixing the level of subsidy to the Foundation. The proposal was accepted by the Finance Committee after lengthy and detailed discussion. Unofficial Members expressed their concern over the steep rise in fees and asked Government as employer to consider giving assistance to members of the Civil Service. It was also hoped that in private sector employers would give similar assistance to their own employees. The increase in fees was subsequently announced by the Director of Education on the 17th May.

I would like at this point to clear up what is apparently a widespread misconception concerning the powers and functions of Finance Committee. The authority of the Finance Committee is limited to either accepting or rejecting proposals for public expenditure put before it by Government. It may reduce the amount proposed, but it cannot increase it, and it cannot itself propose expenditure.

In this instance, it was not open to Finance Committee to vote a larger subsidy for English-speaking schools than that proposed by Government—which would of course have made it possible to increase fees by a smaller amount.

The question of school fees is determined, as I have said, by the school authorities concerned. This to a certain extent is determined by the level of subsidy. But although the level of subsidy is subject to Finance Committee's approval, it is not proposed by the Finance Committee but by Government. Finance Committee, as I have said, can only accept, reject or reduce.

Finally, I make reference to the third and most distasteful aspect of the matter—the violent and scurrilous attacks on Unofficial Members of this Council and the inaccurate and misleading information that has been disseminated. These have been the more deplorable because the authors were in some instances persons supposedly well-informed and knowledgable on the issue.

A senior Government officer wrote a letter to the press stating that "Finance Committee is responsible for setting the level of fees and for all of the financial implications of putting the policy into practice". He further asserted that "the Director of Education was not constitutionally responsible either for the policy or for the way it is implemented".

Another person, signing himself as the Chairman of a Parent Teacher Association, has accused Unofficial Members of betraying their trust, and alleged not only that the decision to increase fees was taken by Finance Committee but that there is reason to believe that Unofficial Members "chose to disregard the advice given by their Official colleagues" in taking this decision.

I personally have been accused of hiding behind the Director of Education and have been censured for accepting and subsequently refusing an invitation to discuss the issue on a radio programme. As a matter of fact, I agreed to take part provided that a Government spokesman also participated, for the issue centres around Government policy and I could not presume to speak for Government on policy matters. The participation of a Government spokesman was not arranged for, and so I did not take part.

What I am concerned about, however, is not the fact that I have been accused of playing hide-and-seek, or even that Unofficial Members of this Council have been unfairly attacked.

My principal concern, Sir, is the danger that public confidence in Unofficial Members of this Council may be impaired, and that the harmony which has been such an inestimable feature of our community may be disturbed.

It is because of this concern that I have spoken today.

DR CHUNG:—Your Excellency, I rise to support my senior honourable Colleague, Mr KAN, regarding his statement on the issue of the increase in school fees in English-speaking schools. The basic principle and policy of parity, in which Government is committed to provide one general level of subsidy for primary education and another level of subsidy for secondary education for all school children in Hong Kong irrespective of their breed and creed, is a very sound one and I for one do not wish to see it changed.

There are four parties involved in this particular issue of school fees. The first party is the students and their parents and I wish to associate myself with my honourable Colleague, Mr KAN, in expressing our sympathy to them. Their uproar is indeed understandable.

The second party is the school authorities themselves. As far as I know, the running cost per place of these English-speaking schools is about three to four times as much as that of the Anglo-Chinese schools. I am no expert on school administration but I believe that some measures could be taken to economize expenditure on these English-speaking schools without any significant reduction of the quality. I

understand that the teachers payroll is the major item of the running cost and, surely, I do not think the teachers in the English-speaking schools are drawing salaries three or four times as much as those employed by the Anglo-Chinese schools.

Government as the public administration in Hong Kong is the third party involved and, as I said earlier, the basic principle and policy adopted by Government on the parity of school fee subsidy is a sound one. The last, but by no means the least important, party in this issue is the employers of the parents of the students in these English-speaking schools. Like my honourable Colleague, I do feel that Government in its capacity as an employer and other employers in the private sector of Hong Kong should urgently consider what help they can and should give to their employees under hardship in a similar manner as the rapid rent spiral which occurred last year.

3.53 p.m.

THE ATTORNEY GENERAL (MR ROBERTS):—On a point of order, Sir, Standing Order 9(7) does provide that at the expiration of twenty minutes from the moving of a motion under paragraph 4 of Standing Order 9, which is the adjournment debate one, if an Official Member has not yet been called upon to reply the President should direct the Member then speaking to resume his seat. Twenty minutes have passed. Also, Sir, Standing Order 9(8) provides that at the expiration of thirty minutes from the moving of the motion, the President shall adjourn the Council. Sir, if you would give your consent which is required under Standing Order 68 because I haven't given notice of this motion, I would propose to move that Standing Orders 9(7) and 9(8) should be suspended in order that the honourable Mr BROWNE may be able to address the Council and also in order that the Colonial Secretary shall be able to complete his reply.

HIS EXCELLENCY THE PRESIDENT:—I give my consent to the moving of the motion. The question is that Standing Orders 9(7) and 9(8) should be suspended in order to enable other Members to address the Council.

Question put and agreed to.

MR BROWNE:—Thank you, Sir. I shall be brief.

The honourable Y. K. KAN has reminded us that educational policy was debated in this Council at great length in 1965. However, I believe I am right in saying that in 1965 no one imagined that the English school fees would go as high as $1,500 a year for Junior schools and $3,000 per annum for Secondary schools.

[MR BROWNE] **School Fees**

In the intervening years there have been a number of developments and changes in the educational scene—ETV for example, which is coming in soon—and while the parity principle that was agreed at that time was clearly on the right lines—and I support it—I suggest that it would be advisable to have a new look at ways in which the principle of parity should be implemented.

I understand that Government Chinese schools generally cost more to run than Aided schools, and that there are also wide variations in the costs of individual schools inside each sector. Therefore it is necessary to ensure that the correct comparisons have been selected when looking at the cost of English schools.

Looking ahead, has not the time come for another complete review to be made of the financial arrangements for the whole system of Primary and Secondary education in both Chinese and English schools, and in the Government and the Aided sectors? A new approach might result in considerable simplification of the present complicated financial arrangements for Aided schools, and the managers of the schools could then devote more effect to improving educational standards.

Simplification of procedures would in turn take a load off the Education Department, who anyhow have their hands full dealing with the urgently needed expansion of Secondary and Post-Secondary education over the next few years. I realize that is a complex subject that will take time to examine, but I think it should be considered.

There has been much comment in the press on this whole issue and I would like to record my objection to the unjustified remarks that have been made about my honourable Friend, Mr KAN.

All of us appreciate that these increases in fees have caused great anxiety to many parents. I hope that Government will therefore give urgent consideration to the recommendation of the Salaries Commission when it is received and will soon be in a position to announce the remission arrangements that will apply from September.

THE COLONIAL SECRETARY (ACTING) (MR CLINTON):—Your Excellency, I am most grateful to Mr Y. K. KAN for putting in perspective the facts regarding the charging of fees in English speaking schools. He has stated the history of the matter in great detail, and has corrected many of the misconceptions which have permeated the correspondance columns of some newspapers recently.

In two particulars the situation has been gravely misrepresented.

First, the role of Finance Committee has been misunderstood. The Committee is asked to advise the Legislature on whether or not expenditure should be incurred. In this role, Finance Committee considered the proposed rate of subsidy to English speaking schools. The Committee do not fix fees, nor is it within the province of this Committee to fix fees of English speaking or any other type of school. I have neither heard, nor seen, any convincing argument against what this Council debated publicly, and accepted, so long ago, that the principle of *parity* of subsidy should apply to all types of school and should be the policy of this Government. The Committee simply advised on the rate of public expenditure on the subsidy for the English Schools Foundation in accordance with this policy.

The actual fees to be charged are the cost of running the schools *minus* the subsidy. Unfortunately, the costs of running English language schools are far more than for Chinese language schools, hence the higher fees. It is as simple as that and it is up to the schools themselves to see whether the costs can be reduced at least to some extent. I cannot speak for the Foundation, but my honourable Colleague, the Director of Education, informs me that in so far as Government schools are concerned he has this aspect under close examination.

The second misconception which has arisen is that Government has remained silent on this issue. There have been statements in this Council, and by the Director of Education, and through the publicity media, and finally Sir David TRENCH himself went to considerable trouble at the Airport last Thursday when meeting the Press to make the position quite clear.

Accusations of ill-will or prejudice against this Council or its Committees, and accusations of silence on the Government's part, are entirely misdirected and without foundation. I deplore the personal attacks on Unofficial Members of this Council. At the same time, we can fully appreciate the very considerable concern which the parents involved feel on this issue.

As has been made clear before, this is a three stage exercise. First, in accordance with long decided policy which no one has impugned, the rate of subsidy has been equitably fixed. The next stage is to fix the rates of remission. In view of the announced introduction of free primary education, and the rate of increase in the cost of education in all fields, this is not a simple problem but proposals have been made by the Director of Education and it is hoped that a decision will be reached in the very near future.

The purpose of the fee remission scheme is to give help where it is most needed and once the rates and system of remission have

been decided, and only then, can the weight of the burden on parents be assessed. At this stage, and only then, can employers consider where their obligations lie in relation to their own employees.

In its other role Government, as an employer, will also have to consider whether and to what extent relief must be made available to parents in the Civil Service. This is a very real problem on which I have received representations from the Staff Association most involved. The morale and efficiency of the Civil Service is vital and let me say here and now that, contrary to popular belief, Government is most concerned. I have no doubt that this issue will have to be considered shortly by the Finance Committee of this Council; at the moment I am authorized to say that it is being considered very carefully by the Salaries Commission and I am hopeful that the matter can be dealt with quickly as soon as we receive their recommendations.

Sir, in supporting this motion for the adjournment I would also wish to support what my honourable Friends, Mr Y. K. KAN and Dr S. Y. CHUNG have said and to say that the points raised by Mr BROWNE will be examined.

Question put and agreed to.

Next sitting

HIS EXCELLENCY THE PRESIDENT:—Accordingly I now adjourn the Council until half past two o'clock on Wednesday the 23rd June 1971.

Adjourned accordingly at four minutes past Four o'clock.

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